IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

ARNOLD OIL PROPERTIES, L.L.C.,	§	
	§	
Plaintiff	§	
	§	
v.	§	Case No.: CIV-08-1361 D
	§	
SCHLUMBERGER TECHNOLOGY	§	
CORPORATION,	§	
	§	
Defendant	§	

<u>DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, OR, IN THE</u> <u>ALTERNATIVE, MOTION FOR DECLARATORY JUDGMENT, AND BRIEF IN</u> <u>SUPPORT THEREOF</u>

COMES NOW, Defendant SCHLUMBERGER TECHNOLOGY CORPORATION, and files this Motion for Summary Judgment, or, in the alternative, Motion for Declaratory Judgment, and Brief in Support Thereof, against Plaintiff ARNOLD OIL PROPERTIES, L.L.C. and shows this Court as follows:

I. PURPOSE OF MOTION

A. Plaintiff cannot prevail on its claims for negligence, gross negligence, and breach of contract because the written contract executed by both Plaintiff and Defendant indemnifies and holds harmless Defendant against these claims asserted by Plaintiff.

B. Alternatively, if the Court does not enforce these terms within the contract then the Defendant would argue that the contract limits Plaintiff's recoverable damages to what is

owed to the Defendant under the contract.

I. PROCEDURAL AUTHORITY

Defendant contends that summary judgment should be granted based on Fed.R.Civ.P 56 since there is a valid and enforceable written agreement and no evidence that would render its terms unenforceable.

III. ADMITTED FACTS

The following numbered facts are a complete list of the material facts to which the moving party contends no genuine issue of fact exists.

- 1. On March 9, 2007, Plaintiff began drilling a well in Custer County, Oklahoma.

 Paragraph 5 of Plaintiff's Complaint.
- 2. The well was drilled to a depth of 13,444 feet. Paragraph 7 of Plaintiff's Complaint.
- 3. Plaintiff contacted Defendant on May 31, 2007 concerning the providing of cement services to its well. Paragraph 9 of Plaintiff's Complaint.
- 4. Plaintiff entered into a an enforceable contract with Defendant for cement services to Plaintiff's well (the "Contract"). Allegation in paragraph 39 in Defendant's Answer to Plaintiff's Complaint and admitted in paragraph 1 of Plaintiff's Answer to Defendant's Counterclaim. The Contract is attached hereto as Exhibit "A".
- 5. Scott Thompson is Chief Operating officer for Plaintiff. Exhibit "B", p. 14:1-14 from the deposition transcript of Scott Thompson.

- 6. Mr. Thompson testified that the Contract covered the services provided by Defendant to Plaintiff on June 2, 2007. Exhibit "B", pgs. 102: 15-25; 103:1-9.
- 7. Mr. Thompson knew in advance of June 2, 2007 that such a Contract with terms and conditions would be presented by Defendant to Plaintiff for execution. Exhibit "B", p. 104: 2-7.
- 8. Steve Kester was Plaintiff's well site representative and had authority to execute contracts presented by Defendant. Exhibit "C", p. 58:14-21.
- 9. Mr. Kester read the front page of the Contract and executed it on June 2, 2007. Exhibit "C", pgs. 157: 17-25, 158: 1-10, 128: 10-16.
- 10. On June 2, 2007, the cement job to Plaintiff's well was completed. Paragraph 24 of Plaintiff's Complaint.
- 11. Plaintiff filed this lawsuit on December 18, 2008, complaining about the cement services provided to it by Defendant on June 2, 2007.

IV. CONTRACT PROVISIONS

A. The Contract Indemnifies and Holds Harmless Defendant From and Against All Claims

1. Within the Contract signed by Plaintiff, there are at least three provisions addressing Plaintiff's agreement to indemnify and hold harmless the Defendant from *all claims*. They are contained within the "General Terms and Condition" which are highlighted on the front of the Contract and printed in bold and all-capital letters on the back of the Contract.

First, under paragraph 9, entitled "INDEMNITIES," at subpart (a)(2), it states:

CUSTOMER SHALL BE RESPONSIBLE FOR AND HEREBY AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS SCHLUMBERGER GROUP AND ITS INSURERS FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH DAMAGE TO OR LOSS OR DESTRUCTION OF PROPERTY...ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT OR THE SERVICES PROVIDED HEREUNDER...

(emphasis added).

2. Then, again, the Contract speaks to the fact that Plaintiff is holding the Defendant harmless against all claims for "property damages or loss that result from reservoir or underground damage." This can be found at paragraph 9(b) of the Contract signed by Plaintiff, part of which is as follows:

CUSTOMER ASSUMES ALL LIABILITY FOR AND AGREES TO PROTECT, DEFEND, INDEMNIFY, AND HOLD SCHLUMBERGER GROUP AND ITS INSURERS HARMLESS FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR IN CONNECTION HEREWITH FOR...(III) PROPERTY DAMAGE OR LOSS THAT RESULT FROM RESERVOIR OR UNDERGROUND DAMAGE, INCLUDING LOSS OF OIL, GAS, OTHER MINERAL SUBSTANCES, OR WATER OR THE WELL BORE ITSELF...

(emphasis added).

The very essence of Plaintiff's Complaint is that Defendant's services caused underground damage and an inability to enter a certain reservoir forcing Plaintiff to conduct alternative procedures to correct the damage and enter the reservoir. *See* Plaintiff's Complaint at paragraphs 26-28.

3. Lastly, paragraph 9(c) of the Contract signed by Plaintiff reaffirms the

provisions in subparts (a) and (b) above and tells the Plaintiff, again, that it is relieving the Defendant of all liability and damages related to the services under the Contract. It is set forth below:

Application of Indemnities: THE ASSUMPTION OF LIABILITY AND INDEMNITIES IN PARAGRAPHS (a) AND (b) ABOVE SHALL APPLY TO ANY LOSS, DAMAGE...OR CLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT OR THE SERVICES PROVIDED HEREUNDER WITHOUT REGARD TO THE CAUSE(S) THEREOF INCLUDING, WITHOUT LIMITATION...THE SOLE, JOINT, CONCURRENT OR GROSS, ACTIVE OR PASSIVE, NEGLIGENCE OR OTHER FAULT OF THE INDEMNITEE OR ITS CONTRACTORS OR SUBCONTRACTORS OR ITS OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES OR INVITEES.

(emphasis added).

B. Front of the Contract Alerts Plaintiff to Indemnity Provisions

As the Court can see, the front of the Contract explicitly tells the Plaintiff that "INDEMNITY & HOLD HARMLESS PROVISIONS REQUIRING CUSTOMER AND SCHLUMBERGER TO BE RESPONSIBLE FOR THE NEGLIGENCE, STRICT LIABILITY, OR FAULT OF THE OTHER."

C. Indemnity is Mutual

The indemnity within the Contract is not solely for the benefit of the Defendant. In paragraph 9(a)(1) of the Contract, the Defendant is indemnifying Plaintiff from liability arising out of the services provided.

V. LEGAL AUTHORITY

A. Oklahoma Substantive Law Applies

"A federal court sitting in diversity...must apply the substantive laws of the forum state." *Vitkus v. Beatrice Co.*, 127 F.3d 936, 941 (10th Cir. 1997). Oklahoma law mandates that a contract will be governed by the laws of the state where the parties entered into the contract. *Williams v. Shearson Lehman Bros., Inc.*, 917 P.2d 998, 1002 (Okla. App. 1995). The Contract was signed and executed in Oklahoma, and should therefore be governed by Oklahoma's substantive laws.

B. Intent of Parties as Expressed in Contract Controls

The general rules of contract interpretation apply to the interpretation of an indemnity contract. *Otis Elevator Co. v. Midland Red Oak Realty, Inc.* 483 F.3d 1095, 1101 (10th Cir. 2007). "Indemnity agreements are valid agreements and are governed by statute in Oklahoma." *Id.* (citing OKLA. STAT. TIT. 15 §§ 421-429 (1993)). The Court must give effect to the intent of the parties as expressed in the Contract. *Id.* Oklahoma law states that when examining a Contract, the Contract "must be so interpreted as to give effect to the mutual intention of the parties, as it existed at the time of contracting, so far as the same is ascertainable and lawful." *Cossey v. Cherokee Nation Enters., L.L.C.*, 2009 WL 146685, at *17 (Okla. Jan. 20, 2009) (citing OKLA. STAT. TIT. 15 § 152 (2001). "The whole of a contract is to be taken together, so as to give effect to every part, if reasonably practical, each clause helping to interpret the others." *Id.* (citing OKLA. STAT. TIT. 15 § 157 (2001)).

Examination of the Contract between Plaintiff and Defendant gives an unequivocally clear reading of the intention of the parties at the time of contracting. The indemnity provisions are in all-caps, emboldened, and clearly titled in the body of the Contract. Moreover, the signature page refers the signer to the indemnity provisions in the body of the Contract.

C. Indemnity Provisions are Valid and Enforceable in Oklahoma

Under Oklahoma law, where the intent of indemnification is unequivocally clear from the examination of the Contract, such agreement is enforceable. *Fretwell v. Protection Alarm Co.*, 764 P.2d 149, 152-53 (Okla. 1988). In a contract indemnifying a party from its own negligence, the provision "will be strictly construed and must meet three conditions: (1) the parties must express their intent to exculpate in unequivocally clear language; (2) the agreement must result from an arm's-length transaction between parties of equal bargaining power; and (3) the exculpation must not violate public policy." *Otis*, 483 F.3d at 1101.

In *Fretwell*, the Supreme Court of Oklahoma upheld an indemnity provision in a contract between an alarm company and a homeowner which indemnified the defendant alarm company against any claims resulting from its negligence. The language of the contract provided that "[s]ubscriber agrees to indemnify, defend, and hold Protection (defendant) harmless from any and all claims and lawsuits...whether these claims are based upon...negligence...on the part of Protection, its agents, servants, or employees." *Id.* The plaintiff homeowners challenged the provision, claiming that the indemnity clause was

unenforceable because it sought to indemnify from one's own negligence. The Court upheld the indemnity provision, stating:

Broadly speaking, a promise of indemnity for the performance of an act not illegal, immoral, or against public policy is valid...[I]t is now the prevailing rule that a contract may validly provide for the indemnification of one against, or relieve him from liability for his own future acts of negligence provided the indemnity against such negligence is made unequivocally clear in the contract.

Id. (citing 41 Am. Jur. 2d Indemnity § 9 (1968)).

As to the first requirement for a valid indemnity agreement, the language of the indemnity provisions in the Contract executed by Plaintiff and Defendant is almost identical to the language in *Fretwell*. The Contract expressly provides that Plaintiff agrees to protect, defend, indemnify, and hold harmless Defendant against all claims arising out of the Contract or services. Moreover, the contemplation of simple or gross negligence as a future damage for which indemnity will apply is made unequivocally clear in the Contract.

As to the second requirement, the Court must consider the equality of the contracting parties' bargaining power by "first assessing the importance of the subject matter to the physical or economic well-being of the party agreeing to the release," and second, "the amount of free choice that party could have exercised when seeking alternate services." *Manning v. Brannon*, 956 P.2d 156, 159 (Okla. Civ. App. 1997) (citing *Schmidt v. U.S.*, 912 P.2d 871 (Okla. 1996)) (internal quotations omitted). Defendant is not aware of any evidence at the time suggesting that Plaintiff's economic well-being depended on the cement services, and that Plaintiff had no choice but to use the Defendant.

Lastly, indemnity provisions may not violate public policy. *Otis*, 483 F.3d at 1101. That is, they may not "injure public morals, public health or confidence in the administration of the law nor destroy the security of individuals' rights to personal safety or private property." *Id.* The indemnity provision in the Contract between Plaintiff and Defendant was contracted between two business entities and there is no evidence that its enforcement would negatively effect public morals, health, or security of individual's rights. This Contract concerns a service performed by one corporation for another and has no effect on public policy.

VI. DECLARATION THAT DAMAGES ARE LIMITED

A. Parties Agreed to Limit Damages in this Contract

If the Court finds the hold harmless provisions of the Contract unenforceable, Defendant, in the alternative, seeks declaratory relief under the Federal Declaratory Judgment Act, 22 U.S.C §§2201-2202. Defendant would ask the Court to declare that Defendant's exposure to damages is limited to the amount of the unpaid consideration for the services provided to Plaintiff by Defendant under the Contract. In the Contract executed by the parties, Exhibit "1," Plaintiff agreed in paragraph 12 to limit its damages as follows:

12. LIMITATION OF LIABILITY: Notwithstanding anything to the contrary herein, except as provided under Paragraph 9(a)1 (Personal and Property Indemnities), Schlumberger's liability arising from or in connection with this Contract (whether for indemnity, breach of contract, negligence, misrepresentation, or otherwise) shall not in any circumstances exceed the full value of the consideration owed to Schlumberger under this Contract.

B. Clauses Limiting Damages are to be Enforced in Oklahoma

As a general rule of contracts, the contracting parties can by agreement limit their liability in damages to a specified amount at the time of making their contract. *See* Restatement of Contracts, § 339; *Fretwell*, 764 P.2d at 152. In *Fretwell*, the Court upheld a limitation of liability provision in the contract between the alarm company and the homeowners who were burglarized due to the alarm company's alleged negligence. The Court stated that the contract established a common law duty to perform with care, skill, reasonable expediency, and therefore it reasonably follows that since the contract established that duty, any lawful limitations in the contract may also limit the liability of the tortfeasor. *Id.* at 151. The contract established a duty to the promisee homeowners but it also limited the liability of the promissor and these limitations were clearly within the contemplation of the parties to the agreement. *Id.* The Court upheld the limitation of liability provision as neither unconscionable nor against public policy. *Id.* at 152.

Therefore, the limitation of liability provision in the Contract should be enforced, because under Oklahoma law parties can contractually limit their liability in damages. Per the Contract, Defendant's liability in damages, if any, should be limited to the amount of the unpaid invoice or consideration for the services provided to Plaintiff by Defendant under the Contract.

VII. PRAYER

WHEREFORE, Defendant Schlumberger Technology Corporation prays for summary

judgment in its favor and dismissing each of Plaintiff's claims against this Defendant, or in the alternative, a declaratory judgment limiting the liability in damages recoverable from this Defendant, and for such other and further relief at law, or inequity, to which this Defendant may be justly entitled.

Respectfully submitted,

HARGIS & HARPOLD, L.L.P.

/s/ Grant P. Harpold
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ATTORNEYS FOR DEFENDANT SCHLUMBERGER TECHNOLOGY CORPORATION

CERTIFICATE OF SERVICE

I certify that on this 3rd day of September, 2009, I electronically filed a true and correct copy of this document with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to the following ECF registrants:

Mr. Thomas G. Wolfe Phillips Murrah, PC Corporate Tower | Thirteenth Floor 101 N. Robinson Oklahoma City, Oklahoma 73102

> /s/ Grant P. Harpold GRANT P. HARPOLD

Case 5:08-cv-01361-D Document 33 Filed 09/03/09 Page 13 of 29

CONTRACT SCHLUMBERGER TECHNOLOGY CORPORATION



				SCNumber 2205653120
Invoice Mailing Address: ARNOLD OIL PROPERTIES			ARRIVE LOCATION	Date Time 4:00 PN
5600 NORTH MAY AVE SUITE 1 OKLAHOMA CITY, OK US	125		Service Instructions Cement 2 7/8in casi	
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Customer PO	Contract	A	Service Description	
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THIS IS A CONTRACT FOR GOODS AND SERVICES TO BE PROVIDED PURSUANT TO THE MASTER SERVICE AGREEMENT BETWEEN CUSTOMER AND SCHLUMBERGER. IN THE ABSENCE OF A MASTER SERVICE AGREEMENT, CUSTOMER AND SCHLUMBERGER AGREE THE GOODS AND SERVICES ARE PROVIDED PURSUANT TO THIS CONTRACT, INCLUDING THE TERMS AND CONDITIONS ON THE BACK OF (OR ATTACHED TO) THIS CONTRACT. WHICH CONTAIN WARRANTY EXCLUSIONS AND INDEMNITY & HOLD HARMLESS PROVISIONS REQUIRING CUSTOMER AND SCHLUMBERGER TO BE RESPONSIBLE

FOR THE NEGLIGENCE, STRICT LIABILITY OR	FAULT OF THE OTHER.	
I authorize work to begin as set forth in this Contract and Contract.	represent that I have the authority of the customer to accept and sign this	
Signature of Customer or Authorized Representative:	Sat Jun 02 20:33:39 2007 KESTER, STEVE	_
Signature of Schlumberger Representative:	Set Jun 02 20:34:05 2007	
	Carnott, Christian	-

THE FOLLOWING GENERAL TERMS AND CONDITIONS OF THIS CONTRACT CONTAIN INDEMNITY AND CHOICE OF LAW PROVISIONS - PLEASE READ CAREFULLY

Acceptance. By requesting Schlumberger's services, equipment, or products, Customer voluntarily elects to enter

Definitions.

- Schlimberger Schlimberger Technology Corporation, a Texas corporation.
- Customer the person, firm or other entity to which equipment and/or services are supplied or provided.
- Group Either Schlumberger or Customer and its respective parents, affiliates, subsidiaries, and each of their respective officers, directors and employees.
- Claims Damage, loss, liability, claims, demands and causes of action of every kind and character (including all costs and expenses thereof and reasonable attorney fees associated therewith)
- Terms. Cash in advance unless Schlumberger has approved Customer's credit prior to the sale. Terms of sale for credit-approved accounts are total invoice amount due at Schlumberger's office, Houston, Texas on or before the 30th day from the date of invoice. Customer shall pay interest on past due balances at the lesser of 1.5% per month or the maximum allowed by applicable state or federal law. If Customer's account becomes delinquent, Schlumberger shall have the right to revoke any and all previously applied discounts. Upon such revocation, the full invoice price without discount will become immediately due and owing and subject to collection. Customer hereby agrees to pay all fees directly or indirectly incurred in the collection of past due or dolinguent accounts, including agency and attorney's fees.
- Taxes. Customer shall pay any and all taxes or other levies (other than income taxes) imposed by any government, governmental unit or similar authority with respect to the charges made or payments received in connection with Schlumberger's services, equipment or products.
- Independent Contractor. Schlumberger is and shall be an independent contractor with respect to the performance of the services set forth on this service Contract, and neither Schlumberger nor anyone employed by Schlumberger shall be the agent, representative, employee or servant of Customer in the performance of such services or any part hereof. When Contractor's employees (defined to include Schlumberger's direct, borrowed, special, or statutory employees) are covered by the Louisiana Workers' Compensation Act, La R.S. 23:1021 et seq., Customer and Schlumberger agree that all work and operations performed by Schlumberger and its employees pursuant to this Contract are an integral part of and are essential to the ability of Customer to generate Customer's goods, products and services for purposes of La R.S. 23:1061 (A)(1). Furthermore, Customer and Schlumberger agree that Customer is the statutory employer of Schlumberger's employees for purposes of La R.S. 23:1061 (A)(3). Irrespective of Customer's status as the statutory employer or special employer (as defined in La R.S. 23:1031 (Cl)) of Schlumberger's employees, Schlumberger shall remain primarily responsible for the payment of Louisiana workers' compensation benefits to its employees, and shall not be entitled to seek contribution for any such payments from Customer.

- (a) Well Conditions: Notification of Hazardous Conditions. Customer, having custody and control of the well and superior knowledge of the conditions in and surrounding it, shall provide Schlumberger with all necessary information to enable Schlumberger to perform its services safely and efficiently. Schlumberger's equipment is designed to operate under conditions normally encountered in the well bore; however, if hazardous or unusual conditions exist, Customer shall notify Schlumberger in advance and make special arrangements for servicing such wells
- (b) Chemicals. The handling and disposal of any chemical, waste or by-product used or resulting from Contractor's performance of its services hereunder ("Chemicals") become the sole responsibility of Customer when such Chemicals are returned to the surface of the land or sea from below the rotary table. Customer understands and agrees that the Chemicals are the property of Customer and that Customer is the owner of the Chemicals Customer agrees that it will transport and dispose of any such Chemicals in accordance with all applicable federal, state and local laws and regulations. Customer hereby waives, releases and agrees not to assert any claim or bring any cost recovery action against Schlumberger in connection with the use, generation, storage, transportation or disposal of Chemicals under any common law theories or federal, state or local environmental laws or regulations, now existing or hereinafter enacted, without regard to the cause or causes thereof or the neclicence of any party.
- (c) Radioactive Sources. If any radioactive source is lost in a well, at the well site, while being transported by Customer or a third-party on behalf of Customer, or while under the custody or control of Customer, Customer shall exert its best efforts to recover the source and shall take precautions in order to avoid breaking or damaging the source. If the source is not recovered, or if the container is broken, Customer shall immediately comply with all
- applicable laws and regulations, including the isolation and marking of the location of the source.

 (d) Fishing Operations. Customer shall assume the entire responsibility for operations in which Customer or its representatives attempt to fish for equipment but Schlumberger will, without assuming liability and if so requested by Customer, render assistance for the recovery of such equipment.

Warranty for Products and Services.

- (a) Schlumberger represents and warrants that all services provided hereunder shall be performed in a good and workmanlike manner in accordance with good oilfield practices and that it shall exercise diligence to insure the correctness and safe transport of all log, test and other data. Schlumberger will give Customer the benefit of its best judgment based on its experience interpreting information and making written or oral recommendations concerning logs or tests or other data, type or amount of material or service required, manner of performance or predicting results. Nevertheless, all such recommendations or predictions are opinions only and in view of the impracticability of obtaining first-hand knowledge of the many variable conditions, the reliance on inferences, measurements and assumptions which are not infallible, and/or the necessity of relying on facts and supporting Services furnished by others, no warranty is given concerning the accuracy of completeness of log, test or other data, the effectiveness of material used, recommendations given, or results of the services rendered. Schlumberger will not be responsible for accidental or intentional interception of or tampering with data by others, nod does schlumberger guarantee the safe storage of the length of time of storage or against loss of any digital tapes, optical logs or prints, or other similar products OR MATERIALS
- (b) Schlumberger warrants that products (including but not limited to tools, supplies and materials) furnished hereunder shall conform to the quality and specifications represented. Schlumberger reserves the right, at its sole discretion, to use new, used or refurbished parts in the assembly of its products. Schlumberger warrants all its products to be free of defects in material and workmanship for a period of twelve (12) months from the date of installation or eighteen (18) months from the date of delivery ex Schlumberger's works, whichever occurs first. The above warranty does not apply to products that have been modified by anyone at Customer's request, supplied by Customer or purchased by Schlumberger at Customer's request, and/or that have been subjected to improper handling, storage, application, installation, operation or maintenance by anyone other than Schlumberger, and
- including but not limited to damage caused by aggressive fluids, lightning or improper voltage supply.

 (c) Schlumberger's sole liability and Customer's exclusive remedy under the foregoing warranties are expressly limited to the repair, replacement or the refund of an equitable portion of the purchase price, at Schlumberger's sole option, of products or services which prove to be defective within the warranty period. A Customer claim pursuant to this warranty shall be made immediately upon discovery and confirmed in writing within thirty (30) days after discovery of the defect. Defective items must be hald for inspection or returned to the original Schlumberger delivery point upon request. Schlumberger shall have the right to inspect the products claimed to be defective and shall have the right to determine the cause of such defect. Returned products shall become the property of Schlumberger

THE FOREGOING WARRANTIES FOR SERVICES AND PRODUCTS ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER ORAL, WRITTEN, EXPRESS, IMPUED OR STATUTORY. IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY SHALL NOT APPLY. SCHLUMBERGER'S WARRANTY OBLIGATIONS AND CUSTOMER'S REMEDIES THEREUNDER (EXCEPT AS TO TITLE) ARE SOLELY AND EXCLUSIVELY AS STATED HEREIN.

Title and Risk of Loss

- (a) Unless otherwise agreed between the parties, title to and risk of loss for products sold will pass to Customer ex Schlumberger's works. Customer will pay or reimburse Schlumberger for all freight, preparation, and in-transit, insurance costs from the time of delivery. Customer agrees that title to and risk of loss for products will pass to and remain with Customer, even if Schlumberger agrees to store the products at a Schlumberger location until
- (b) The time, method, place or medium of payment will not in any way limit Schlumberger's rights in and to the products until payment has been received in full. On all orders, Schlumberger shall retain a security interest in the products to the extent of any unpaid balance of the purchase price therefor, and Schlumberger may use all reasonable efforts to retain and/or obtain possession of such products until such unpaid balance has been received and accepted by Schlumberger.

INDEMNITIES

(a) Personnel and Property

- SCHLIMBERGER SHALL BE RESPONSIBLE FOR AND HEREBY AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS CUSTOMER GROUP AND ITS INSURERS FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH DAMAGE TO OR LOSS OR DESTRUCTION OF PROPERTY OF OR THE PERSONAL INJURY, ILLNESS OR DEATH OF ANY MEMBER OF SCHLUMBERGER GROUP OR ITS SUBCONTRACTORS, AGENTS, REPRESENTATIVES OR INVITEES ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT OR THE SERVICES PROVIDED
- CUSTOMER SHALL BE RESPONSIBLE FOR AND HEREBY AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS SCHLUMBERGER GROUP AND ITS INSURERS FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH DAMAGE TO OR LOSS OR DESTRUCTION OF PROPERTY OF OR THE PERSONAL INJURY, ILLNESS OR DEATH OF ANY MEMBER OF CUSTOMER GROUP OR ITS CONTRACTORS (OTHER THAN SCHLUMBERGER) AND SUBCONTRACTORS, AGENTS, REPRESENTATIVES OR INVITEES ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT OR THE SERVICES PROVIDED HEREUNDER.
- CONTRACT OR THE SERVICES PROVIDED HEREUNDER.

 (b) Special Indemnity, Notwithstanding anything to the contrary herein, customer assumes all Liability for and agrees to protect, defend, indemnify, and hold schlumberger group and its insurers hammless from and against all claims arising out of or in connection herewith for: (i) property damage, personal lijury or death or loss that results from blow-out, cratering, whell or work performed to control a wild well; (ii) property damage or loss that results from pollution, contamination, or radiation damage, whether caused by cutdrens failure to property handle. Transport or dispose of any chemicals as required by paragraph 6,6) hereof or otherwise, including containment, clean-up and remediation of the pollutant and contamination, whether or not required by an applicable federal, state or local law or regulation; (iii) property damage or loss that results from reservoir or underground damage, including loss of oil, gas, other mineral substances, or water or the well done the steple, and substances or water or the well done the lower damage arising from subsurface or subsea damage; (iv) cost to control a wild well underground or above the subface including and including and including and including and including the substances. WATER OR THE WELL BORE ITSELF, AND SURFACE DAMAGE ARISING FROM SUBSURFACE OR SUBSEA DAMAGE; (IV) COST TO CONTROL A WILD WELL UNDERGROUND OR ABOVE THE SURFACE, INCLUDING ANY REDRILLING OR REWORKING AND RELATED CLEAN UP COSTS; (V) DAMAGE TO PROPERTY OWNED BY, IN THE POSSESSION OF, OR LEASED BY CUSTOMER, AND/OR WELL OWNER, IF DIFFERENT FROM CUSTOMER (THE TERM "WELL OWNER") SHOULD WORKING AND ROYALTY INTEREST OWNERS OR THE OWNER OF ANY DRILLING RIG, PLATFORM OR OTHER STRUCTURE AT THE WELL SITE; (VI) SUBSURFACE TRESPASS; OR (VII) LOSS OF OR DAMAGE TO SCHLUMBERGER PROPERTY, EQUIPMENT, MATERIALS OR PRODUCTS, INCLUDING BUT NOT LIMITED TO, RECOVERY, REPAIR AND REPLACEMENT EXPENSES, WHEN SUCH LOSS OF DAMAGE OCCURS; (a) IN THE HOLE OR BELOW THE ROTARY TABLE, (b) WHILE IN TRANSIT OR BEING MOVED ON ANY FORM OF TRANSPORTATION OWNED OR FURNISHED BY CUSTOMER, (c) WHILE LOCATED AT THE WELL SITE WHEN SCHLUMBERGER PERSONNEL ARE NOT PRESENT, (d) AS A RESULT OF MIRPROPERLY MAINTAINED PRIVATE ACCESS ROADS TO THE WELL SITE OF THE INFERIOR CONDITION OF LEASE ROADS OR THE SITE, OR (e) WHILE BEING USED BY OR WHILE UNDER THE CUSTODY OR CONTROL OF ANY PERSON OTHER THAN A SCHLUMBERGER EMPLOYEE, WHETHER IN AN EMPERGENCY OR OTHERWISE. (a) ABOVE, THE PROPERTY EQUIPMENT, MATERIALS AND PRODUCTS WILL BE VALUED AT THEIR RESPONDED TO THE PROPERTY ELANDED REPLACEMENT COST AND RENTAL CHARGES ON THE EQUIPMENT LOST OR DAMAGED IN THE HOLE SHALL CONTINUE TO BE PAID UP TO AND INCLUDING THE DATE ON WHICH SCHLUMBERGER RECEIVES NOTICE IN WRITING OF THE LOSS
- OR DAMAGE

 (c) Application of Indemnities. The Assumption of Liability and Indemnities in Paragraphs (a) and (b) above shall apply to any loss, damage, expense, injury, illness, death or claim arising out of or in connection with this contract or the services provided hereunder, without regard to the cause(s) thereof including, without imbitation, unscaworthiness, strict liability, ultrahazabous activity, breach of express or implied warranty, imperfection of material, defect or failure of equipment, defect or "ruim" or other condition of premises, including any conditions that pre-exist the execution of this contract, or the sole, joint, concurrent or gross, active or passive, negligence or other fault of the indemnite or its contractors or subcontractors or its or their employees, agents. REPRESENTATIVES OR INVITEES.
- Anti-Indemnity and Insurance Savings Clause. If any defense, indemnity or insurance provision contained in this Contract conflicts with, is prohibited by or violates public policy under any federal, state or other law determined to be applicable to a particular situation arising from or involving any services, equipment and/or products hereunder, it is understood and agreed that the conflicting, prohibited, or violating provision shall be deemed automatically amended in that situation to the extent, but only to the extent, necessary to conform with, prohibited by and avoid violating public policy under such applicable law.
- Incidental 6. "PINSEQUENTIAL DAMAGES. IT IS EXPRESSLY AGREED THAT THE SCHLUMBERGER GROUP SHALL NOT BE LIABLE TO THE CUSTOMER GROUP FOR ANY PUNITIVE, INCIDENTAL, CONSCOURNTAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY LOSS OF PROFITS OR BUSINESS INTERRUPTION OR LOSS OF USE, LOSS OF PRODUCTION OR LOSS. OF RIGHTIME, REGARDLESS OF THE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE, NEGLIGENCE OR OTHER FAULT OF SCHLUMBERGER.
- Insurance. Each party, as indemnitor, agrees to support the indemnity obligations it assumes under Paragraph 9, by obtaining at its own cost, adequate insurance for the benefit of the other party as indemnitee, with contractual indemnity endorsements. To the extent each party assumes liability hereunder, such insurance shall waive subrogation against the indemnified Group and its insurers and name the indemnified Group as additional insured(s) and loss payee, and to the same extent such coverage shall be primary to that carried by the indemnified Group. Customer shall not self-insure without the written consent of Schlumberger.
- Limitation of Liability. Notwithstanding anything to the contrary herein, except as provided under Paragraph 9. (a) 1. Schlumberger's liability arising from or in connection with this Contract (whether for indemnity, breach of contract, negligence, misrepresentation, or otherwise) shall not in any circumstances exceed the full value of the consideration owed to Schlumberger under this Contract.
- Employee Solicitation. Except with the prior written consent of Schlumberger, Customer shall not directly, indirectly or through third parties solicit, recruit or induce any Schlumberger employee, consultant or representative to leave, terminate or otherwise end his/her association with Schlumberger in order to become an employee, consultant or representative of Customer until at least one (1) year has elapsed from Customer's receipt of the final invoice for
- Miscellaneous. Schlumberger shall not be liable for any delay or non-performance due to governmental regulation, labor disputes, hostile action, weather, fire, acts of God or any other causes beyond the reasonable control of Schlumberger. If services are performed or equipment or products furnished offshore or on navigable water, Federal Maritime laws shall govern this Contract; if performed or furnished in Texas, Louisiana. New Mexico or Wyoming, the laws of Texas shall apply; otherwise the laws of the state where the services are performed or equipment or products are furnished shall apply. Should any clause, sentence, or part of these General Terms and Conditions be held invalid. such holding shall not invalidate the remainder, and the Terms and Conditions shall be interpreted as if the invalid clause, sentence, or part has been modified or omitted, if necessary, as required to conform to the jurisdiction purporting to limit such provision.

NO FIELD EMPLOYEE OF SCHLUMBERGER IS AUTHORIZED OR EMPOWERED TO ALTER THESE GENERAL TERMS AND CONDITIONS.

Case 5:08-cv-01361-D Document 33 Filed 09/03/09 Page 15 of 29

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF OKLAHOMA

ARNOLD OIL PROPERTIES, L.L.C.,) Plaintiff,

) No. CIV-08-1361-D -vs-

(1)SCHLUMBERGER TECHNOLOGY CORPORATION,

Defendant.

MID-CONTINENT TOWER 401 South Boston, Suite 310 Tulsa, Oklahoma 74103 918-599-0507

depo@drreporting.com

Oklahoma City, Oklahoma 73102 ROBINSON RENAISSANCE 119 N. Robinson, Suite 650

DEPOSITION OF SCOTT THOMPSON

TAKEN ON BEHALF OF THE DEFENDANT

IN OKLAHOMA CITY, OKLAHOMA

ON JULY 28, 2009

COPY

EXHIBIT B

REPORTED BY: KASEY D. EGELSTON, CSR

Case 5:08-cv-01361-D Document 33 Filed 09/03/09 Page 16 of 29 Mr. Kester identified you as kind of 1 Q the operations manager. Would that be a title 3 that you carried also? 4 Α That would be fair. But you were also the chief operating 5 officer? 7 Α Yes. 8 Did you have both titles when you came back in 2006? Yes. I mean, we're a small company. 10 A

A Yes. I mean, we're a small company. I think my title on my card says "chief operating officer." We don't have a lot of employees or a lot of positions, so I guess that's a fair statement.

```
15
             (By Mr. Harpold) Let me show you
    Defendant's Exhibit 2 and ask if you've seen
 16
    that document before.
 17
18
                 (Defendant's Exhibit Number 2 was
19
                marked for identification purposes
20
                and made a part of the record)
21
                THE WITNESS: Yes, I have.
22
            (By Mr. Harpold) What is your
        Q
   understanding as to what Defendant's Exhibit 2
23
24
   is?
25
           This is the document that you need --
       Α
             D&R Reporting & Video, Inc. (800) 771-1500
```

Case 5:08-cv-01361-D 506tument 332 Filed 09/03/09agpage 18 of 29

```
that the company man or the company supervisor
on location executes before Schlumberger will
perform a given job.

Q That's the contract for the services to
be provided by Schlumberger on June 2, 2007?
A Yes. It's labeled a contract. I know
I mean, as someone that's worked in the
field, I just know it's something that you have
to sign or they won't do it.
```

Case 5:08-cv-01361-D Document 33 Filed 09/03/09 Page 104 19 of 29

that is correct.

Q You knew that before Schlumberger ever

even came out there to do the work, that they

would require a contract like Defendant's

Exhibit 2 to be executed, with the terms and

conditions as part of it?

A Yes.

` .Case 5:08-cv-01361-D Document 33 Filed 09/03/09 Page 20 of 29

CONTRACT SCHLUMBERGER TECHNOLOGY CORPORATION

Schlumberger

invoice Mailing Address;					8CNumber 2205653120		
ARNOLD OIL PROPERTIES			ARRIVE LOCATION	Date	2007-Jun-02	Time	4:00 PM
5600 NORTH MAY AVE SUITE 125 OKLAHOMA CITY, OK US		Service instructions Cement 2 7/8in casing					
Customer PO Wall	Contract		Service Description				
PITZER 1-2		Stata/Province	AFE	R	om Prod Casing	······································	
Well Maeter: 0830511703	API/UWE 35	OK 039220530001	County/Parist/Block Clister	<u>. </u>	Lagal Lecation		
WILDCAT			Customer or Authorized Rapres			·····	
PLEASE REA	D CAREFUI	I Y TUIS SERVICE	KESTER, STEVE ORDER CONTRACT MUST BE				
THIS IS A CONTRACT FOR G SERVICE AGREEMENT BETV SERVICE AGREEMENT, CUS PROVIDED PURSUANT TO TI	OODS AND VEEN CUST TOMER AND	SERVICES TO BE OMER AND SCHLU SCHLUMBERGER	PROVIDE GOODS OF PROVIDED PURSUAN IMBERGER. IN THE A R AGREE THE GOODS	3 8 VT VB: A 8	ERVICES. TO THE MAS SENCE OF A ND SERVICE	MASTER 8 ARE	
& Hold Harmless Provisi For the Negligence, Stri	ONS REQUI	RING CUSTOMER	A WARRANTY EXCLI AND SCHLUMBERGE HE OTHER	JS R	ions and in To be resp	DEMNITY DNSIBLE	
i authorize work to begin as set forti Contract.	in this Contra	ct and represent that I i	ave the authority of the cu	sto	mer to accept an	d slan this	
Signature of Customer or Authorized		of the sa	84t Jun 02 20:33:39 20:07 STER, STEVE			w angri unis	_
Signature of Schlumberger Represer	ntative:	C Can	Set Jun 02 20:34:05 2007				-

Carnott, Christian

DEFENDANT'S EXHIBIT Thompson THE FOLLOWING GENERAL TERMS AND CONDITIONS OF THIS CONTRACY CONTAIN INDEMNITY AND CHOICE OF LAW PROVISIONS - PLEASE READ CAREFULLY.

Acceptance. By requesting Schlamberger's services, equipment, or products, Customer voluntarily elects to enter nero and top pound by these Geografi Terms and Conditions

- Schlumburge Schlumburger Technology Corporation, a Sexas corporation.
 Curromas the person, fact or other printy to which economies and sexcitives are succlied or provided.
- C Strong Biggs Schamberger or Customer and its respective peronts, alfiliates, succidences, and each of shall respective offices, faculties and employees
- responsive to the property for the control of the c
- Terms. Cash in advance unless Schlumberger has approved Cestomer's credit prior to the sele. Terms of sale for credit approved accounts are lotal invoice acrount due of Schlumberger's effice. Receiper, Teres on or before the 30th day from the date of invoice. Customer shall pay invenent on past the bolances of the lapse of 1.5% per month or the measurem attended by application state or from all low. If Customer's account becomes detendent, Schlumberger shall have the date of production and all invoices of the state of t hours the right to revoke any and all previously applied discounts. Upon such revocation, the full invoice price without staceount will become immediately due and owing and subject to oddisction. Customer hereby agrees to pay all fees directly or indirectly incurred in the collection of part due or delineuran accounts, including agency and attempts have
- Taxes. Customer stall pay any and all taxes or nitrer leves (other than income taxes) imposed by any government, government will or similar authority with respect to the charges made or payments received in correction with Schlumbercan's services, equipment in evecucia
- laidle-peedent Contractor. Schlumberger is and shall be an independent contractor with respect to the performance of the services set from an this service Contract, and related Schlumberger not amount a replayed by Schlumberger shall be the agent, representative, energings or servere of Customer in the performance of such services or any part hersol. When Contractor's energings the first on include Schlumberger's direct, borrowed, special, or services received set covered by the Louisians Workara' Compressation Act, La R.S. 23:1021 or sec, Customer and Schlumberger agene that oil work and operations performed by Schlumberger and its enablyses pursuant to this Contractor are so integral part of and are essential to the bifury of Customer or peeded Schlumberger agene that Customer's text services for purposes of La R.S. 22:103: [ACII]. For fromore, Customer and Schlumberger agene that Customer's text services for purposes of La R.S. 22:103: [ACII]. For fromore, Customer and Schlumberger agene that Customer's text services for purposes of La R.S. 22:103: [ACII]. Interpreting of Customer's custom services are alterior energies or opecial energies to define in La R.S. 20:103 [LA] of Schlumberger semiphores as emphasized and in La R.S. 20:103 [LA] of Schlumberger semiphores and schlumberger semiphores.

- Obligations of Costsees:

 (a) Wall Conditions: Natification of Baserisses Conditions. Customer, having bistody and control of the weet and superior tenneledge of the conditions in and surrounding it, shall provide Schlumberger with all necessary information to enable Schlumberger to perform its services selety and efficiently. Schlumberger is applicable adelegated to perform the conditions select provided the conditions are considered for the week force; the superior over conditions select. Customer shall notify Schlumberger in solvence and make special arrangements for servicing sech
- write.

 10 Elementagis. The handling and dispense of any chemical, waste or by-product used or resulting inne Contractor's performance or its services hereunds: ["Chemicals"] become the sole responsibility of Customer when such Demicals are natured to the surface of the land or see from below the rotary table. Dustomer understands and agrees the the Demicals are the property of Customer and that Customer is the owner of the Cimericals. Customer agrees that it will brancport and dispose of any such Chemicals in accordance with all applicable indused, state and local trust and regulations. Customer hereby welves, releases and agrees not to assert any claim or bring any cost receivany action against Schilmberge in cunnection with the size, generation, strange, transportation or disposal of Chemicals under early common law theories or federal, attate or local smirrormental laws or regulations, now existing or homeinstate enertial, without regard to the cause or coustas thereof or the negligence of any parts.
- tows or regulations, now existing or hereinstitus enected, without regard to the cause or causes thereof or the nepligenous of any party.

 (c) <u>Realizenthy Sansane</u>. It eny radicactive source is loct in a west, at the west axis, white being transported by Customer on a frief-penty on behalf of Customer, or white order the outstudy or control of Customer, Customer shall exist it to best electric recover the source and strain retain retain rotation for broad breaking or desarging the another. If the source is not recovered, or if the consister is broken, Customer shall immediately comply with all applicable leaves and segulations, including the isolation and marking of the location of the source (d) <u>Tabless Benezations</u>. Customer shell assume the saries responsibility for operations in which Customer or its representatives attempt to isa for equipment by Schwinderger will, without examining liability and it so processed by Customer, render assistance for the recovery of such equipment.

reply for Products and Services.

- rement the Products and Services.

 Softwarbappe improvesce and vesions that all services provided hereunder shall be performed in a good and warbapeable memors in accordance with good officed practices and that it shall exercise clippence to instars the correctness and sale surceport of all log, test and other date. Softwarbappe will give Customer the benefit of its best judgment based on its sensences insurement and other memors and making version or meconemisticists concerning logs or pass or other date. Type or amount of material or services required, manner of performance. concerning logs or tests as other date, tips or amount of intervial or service regimed, manner of performance or multicling resists. Nevertheless, all such recommendations or predictions are colonious only out is view of the imprecisability of obsessing first-send inconducty of the meny variable conditions, the refunce on information reservantances and assumptions which are not infulface, and/or the recognity of relying on facts and supporting services the information and assumptions which are not infulface, and/or the recognity of relying on facts and supporting on ontains each, the precipitations of infulface, and/or the recognition of expectations of processing of the processing of th TIME OF STORAGE OF MUTERIALS.

 (b) Schlumberger v
- inger wanters that products firstuding but not renitied to tooks, supplies and materials furnished Schampage wherein that product producing the following countries on the count supplies and indiminist producing the following representation. Softwarebegge receives the right, a list state understand to use the result of the countries of the products. Softwarebegge womants off its products to an first of defects in material and work-mentals for a pariety of the products. Softwarebegge womants and its products to an first of defects in material and work-mentals for a pariety of twenty of the countries from the date of installation or explained from the date of the countries of t Customer or purchased by Schiemberger at Customer's recent; and/or that have been subjected to injumper herofiling, morage, application, installation, upgration or maintonance by anyone other Schiemberger, and
- instancing that on limited to destage caused to appression floids, lightwing or suprance visiting autority and installed to destage caused by appression floids, lightwing or suprance visiting autority and cause and an experience of the purchase prise, at structure limited to the regair, replacement or the refund all an expellable portion of the purchase prise, at Schlumberger's solve option, of products or services which prove no be deletifier within the wasterity period. A Customer state posture of the deletifier within the wasterity period. A Customer state posture or the results are not to the wasterity prise at the deletifier within the wasterity period. A Customer state posture or the results are not to the wasterity period. days alter discovery of the balest. Defective items must be reld for inspection or retained to the original Schamberger demany point abon request. Schamberger demany point abon request. Schamberger demany point abon request. be detective and shall have the right to determine the course of such defect. Returned products shall become the

THE FURECOME MARRANTES FOR SERVICES AND PRODUCTS ARE IN LIGU OF ALL OTHER WARRANTIES, WHETHER GRAL WATTER, EXPRESE MENUE OR STATUTION, IMPLIED WARRANTIES OF STRUES FOR A PARTICULAR PURPOSE AND MERCHANTRASTIT SMALL FOR APPLY SCHUMBERBASTES WARRANTY COMBUTIONS AND CUSTOMER'S REMODES THEREUMORE EXCEPT AS TO TITLE ARE SOLELY AND EXCLUSIVELY AS STATED HEREIM.

Title and Rink of Loss

- The area state or time (a) Unless otherwise agreed herives in the parties, title to and risk of loss for products soid will pass to universely Schlushanger's works. Customer will pay or reimburse Schlumburger for all freight, proporation, and al-fractify insurance costs from the time of delivery. Continues agrees that the to and risk of loss for products will pass to insurance costs from the time of delivery. Continues agrees that the to and risk of loss for products will pass to the products as a Schlumburger agrees to there the products as a Schlumburger location until the products and schlumburgers. and temper and construct, even in community or regions to state me protects as a scientificing account of the Construer requests deferred. (b) The time, material, place or medium of oppress will not in any way limb Scriumberger's rights in and to it's
- enducts and expensed the been reseased in Ald, Deuts aders, Schizothers that sensing a remain entertue, the products are sensed on the product and the products price thereby, and Schizothers may use all products are sensed on the product and the products are the products and Schizothers may use all products are sensed on the product and the products are the products and Schizothers may use all products are sensed on the product and the products are the products and Schizothers may use at the products are the products and the products are the products and Schizothers are the products and the products are the products are the products are the products and the products are the pro roceived and accepted by Schlumberger.

9 INDEMNUTIES

(a) Personnel and Property

- PARIARI, BRIL PLORENTY.

 ECALUMBREDORE MALL BE RESPONSIBLE FOR ARCHERENY ACRES TO PROTECT, BEFAND, PADEMNIST AND UTLD

 RABMERS CUSTOMER GROUP AND ITS INSURENS FROM AND AGAINST ALL CLAIMS ARCSING DUT OF DR. IN

 COMRECTION WITH BARRACK TO OR LOSS OR DESTRICTION OF PROPERTY OF OR THE PERSONAL DELVIK, LIBERTS

 OR DURING OF ARM MEMBERS OF SCHLIMBOREDES GROUP ON THE SPECIATION ACCOUNT, REPRESENTATIVES
 OR BOUNTS OF ARM MEMBERS OF SCHLIMBOREDES GROUP ON THE SPECIATION ACCOUNT, REPRESENTATIVES
 OR BOUNTES AND MAN OF DR. IN COMMICTION WITH THIS CONTRACT OR THE SERVICES PROVIDED

 THE SERVICES PROVIDED
- Nersunder.

 Cletomes shall be reponents for and nerely agree to pretect, detend, indemney and nold nameles schumedised eroup and its neures from the arbitation and arbitation of the object of the control of the control of the control of the control of the previous injury. Reference the last of last of last of protecting of the control of the control
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- ON DAMAGE

 (1) ADDITION OF THE ASSUMPTION OF LABRITY AND INDEMNITES IN PARAGRAPHS (4) AND INADDIT SHALL APPLY TO ANY LOSE, SAMAGE, EXPENSE MAJOR BASINES, DEATH OR CLAM ARCSING OUT OF OR IN
 CONNECTION WITH THE CONTRACT OR THE SERVICES PROVIDED HERELMORE, WITHOUT MEASON OF THE CAUSESS;
 INTEREOR PROLIDERS, WITHOUT LIMITATION, UNSELVANDED, STREET LIMERTY, LIMITANALARADISE ARTIVITY,
 ORACIO OF DUPIESS OR MAPLES WARRANTY, IMPLANMENTION OF MATERIAL BEST OR FAILURE OF EQUIPMENT,
 SHEET OR THUS'S OR MAPLES WARRANTY, IMPLANMENT ON ATTIONNED AND CONTRACT OR FAILURE OF EQUIPMENT,
 OF THIS CONTRACT OR THE SPLE, JOINT CONCURRANT OR SHOPS, ACTIVE OR PASSITE, REQUESTED OF THE MODERNIES OR ITS CONTRACTORS OR BURCHNITACTORS OR THEIR EMPLOYEES, AGENTS,
 APPLICATIONED OR MOTTES. e muemmitee ou its : Centatores de montees.
- METWEENIATHEED BY MAYTEES.

 (I) Anti-lademake raid lazerance Sevines Classes. If any Colores, intensity or insurence provision contained in this Colorest conflicts with, is prohibited by or violates public policy under any tederal, state or other law determined to be applicable to a particular situation artising from or implying any services, eculopment and/or products hearingful for a understood and opmed that the conflicting, prohibited, or violating provision shall be deemed automatically amended in that altunion to the extent, but only to the extent, necessary to conform with, not be prohibited by and avoid violating public pulse under such applicable law.
- incidental of Coreoquerical Drimagos. It is expressly agazed that the schumberice ordup shall not be liable to the customes droup for any punitye, recomptal coreometrial, donest or special damages, seculdors, but set limited to, any loss of properties of business of determition on loss of use, does of production on loss of he time, recarriess of the sole, don't or concurrence, active or palence, reduced to so stem hands of seculmentarics.
- or, agrees to support the incomply obligations it assumes under Paragratin 9, by Insurance. Each party, as incommon, agrees to export the incommity obligations in assumes under rangingers in or intensing at its own cost, exposite incurrent for the benefit of the other party as incommons. With contractual indominity and commons. To the extent each purry assumpts liability hereunder, such insurance shall make subregation against the incommitted forces and its insurance and name the indomnitied Group as additional insurance) and does press, and as the same estant such coverage shall be primary to that carried by the incurrential Group. Customer shall ran aedifureuse without the service connected of Schlumberger.
- Umitables of Liability. Notwith standing anything to the contrary herein, uncest as provided under Paragraph 9 to 1. Schlamberger's Sability anxing from or in connection with this Contract twinstern for inclumint, breach of contract, nephpores, mismoresentation, or otherwise) shall not in any circumstances extend the full volve of the contract, nephpores, mismoresentation, or otherwise) shall not in any circumstances extend the full volve of the contract.
- Employee Seticization. Except with the prior written consent of Schlamberger, Dustones shall not directly, indirectly or brough third parties solicit, securil or induce any Schlamberger amplones, consultant or representative to leave, uservalents or ordinates and his/her association with Schlamberger in ordinate an excelves, consultant or representative of Causemer until at least one (1) year has elapsed from Castonic's rendered to the left-throatest.
- Misserilaments. Schlumberger shall not be ligible for any delay or non-conformance due to governmental regulation, later dispetas, mostle action, weather, fire, acts of God or any other causes expand the reasonable continuit of Schlumberger. If several man performed or explanements furthered distance or on newspecte water. Several Mar litter later shall govern this Comment; if posterined or turnished at Torus, Ludislane, New Absoluce of Wypering, the main user save shall got mit Contract it postering to transpord at least, functions. Now Mexico or Wypering, the base of Team shall apply, contract to the same save the save or profession or explanation or produces are humilitied state apply. Should any classes, sentence, or non-or these Seneral Terms and Conditions to lead invalid, such halfing shall not invalidate the sentenced, and the Terms and Conditions shall be intertrated as if they event clause, sentence, or sent has been modified or pretend, if notestary, as required to conform to the jurisdiction purporting to literal such provision.

NO FIELD EMPLOYEE OF SCHLUMBERGER IS AUTHORIZED OR EMPOWERED TO ALTER THESE GENERAL TERMS AND CONDITIONS.

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C E
                   R
                          Ι
                             F
                                 Ι
                                    C
                                       Α
                                          Τ
                                              E
 1
 2
   STATE OF OKLAHOMA
 3
                             ) SS:
   COUNTY OF OKLAHOMA
 4
 5
       I, Kasey D. Egelston, a Certified Shorthand
   Reporter for the State of Oklahoma, certify that
 7
   SCOTT THOMPSON was by me sworn to testify the
   truth; that the deposition was taken by me in
   stenotype and thereafter transcribed by computer
10
   and is a true and correct transcript of the
11
   testimony of the witness; that the deposition
12
   was taken by me on July 28, 2009, at 10:00 a.m.,
13
   at 101 North Robinson, 13th Floor, Oklahoma
14
   City, Oklahoma; that I am not an attorney for or
15
   relative of either party, or otherwise
16l
   interested in this action.
17
       Witness my hand and seal of office on this
18
   4th day of August 2009.
19
20
21
                          KASEY EGELSTON
                    Oldehoma Certified Shorthand Reporter
22
                          Certificate No. 1875
                       Exp. Date: December 31, 2010
23
                  Kasey D. Egelston, CSR
24
                  Oklahoma Certified Shorthand
                  Reporter, CSR # 1875
25
```

IN THE UNITED STATES DIST	RICT COURT
FOR THE WESTERN DISTRICT	OF OKLAHOMA
ARNOLD OIL PROPERTIES, LLC,)
Plaintiff,	/) \
VS.) CASE NO.) CIV-08-1361-D
SCHLUMBERGER TECHNOLOGY CORPORATION,	<i>)</i>))
Defendants.	<i>)</i>)

DEPOSITION OF STEVE KESTER

TAKEN ON BEHALF OF THE DEFENDANT

IN OKLAHOMA CITY, OKLAHOMA

ON JULY 1, 2009

EXHIBIT C

REPORTED BY: MICHELE WATSON, CSR

STEVE KESTER - July 01, 2009

```
As Arnold's well site representative,
          Q
14
  you did have authority to order services like a
15
  cement job from Schlumberger?
16
         Α
                Yes.
17
                You had the authority to execute
18
  delivery tickets and contracts that would have
19
  been presented to you by Schlumberger?
20
         Α
                Yes.
21
```

You're calling it a ticket, the 17 document is entitled a contract. You were presented the document for the services provided 19 by Schlumberger to Arnold on June 2nd and you 20 signed it with that understanding? 21 That this is what they did. Α 22 0 This contract reflects what 23 Schlumberger did for Arnold on June 2, 2007, 24 correct? 25

1	A Yes.
2	Q If I understood your testimony also,
3	the screen that was presented to you for signature
4	contained the page that's reflected here as Arnold
5	29, part of Exhibit 7?
6	A Correct.
7	Q Did you read the entire screen that
8	contains the information presented here in
9	Arnold 29, Exhibit 7 before you signed it?
10	A Yes.

STEVE KESTER - July 01, 2009

10	Q	Go to Arnold 29 in Exhibit 7, which
11	the document	is entitled "Contract."
12		Do you see that?
13	A	Yes.
14	Q	Is that your signature on that
15	document?	
16	A	Yes.

Case 5:08-cv-01361-D Document 33 Filed 09/03/09 Page 28 of 29

CONTRACT SCHLUMBERGER TECHNOLOGY CORPORATION

Schlumberger

				- 1	CNumber		
invoice Mailing Address:		······································	ARRIVE	Date	205653120		
ARNOLD OIL PROPERTIES			LOCATION	USTE	2007-Jun-02	Time	4:00 PI
5600 NORTH MAY AVE SUITE 125 OKLAHOMA CITY, OK US			Service Instructions Cement 2 7/8in casing	3			
Customer PO	Contract		Service Description	***************************************			
			1	_			
Well		State/Province	AFE		Prod Casing		
PITZER 1-2	474	OK		Rig			
0630511703	API/UWE		County/Parish/Block	·	Legal Location	······································	
Field 1703	35	039220530001	Custer]		
WILDCAT			Gustomer or Authorized Representative				
			KESTER, STEVE				
PLEASE REAL	CAREFUL	<u>LY - THIS SERVICE</u>	ORDER CONTRAC	TMUS	TBE		
COMPLETED BE	FORE SCH	LUMBERGER CAN	DPOVIDE COORS				
THIS IS A CONTRACT FOR G	COMPLETED BEFORE SCHLUMBERGER CAN PROVIDE GOODS OR SERVICES. THIS IS A CONTRACT FOR GOODS AND SERVICES TO BE PROVIDED PURSUANT TO THE MASTER SERVICE AGREEMENT DETAILS.						
CHALLOT VOUTEWELL DEIA	LEN CUS	OMER AND SCHLI	MOCDOCH WY	*	***		
SERVICE AGREEMENT, CUST	OMER ANI	SCHI IIMBERGE	ACREETIE COO	: ABSE	NCE OF A	MASTER	į
PROVIDED PURSUANT TO TH	IS CONTR	ACT INCLUDING	AGREE THE GOO	DS AN	D SERVICE	S ARE	
PROVIDED PURSUANT TO THE		CI, INCLUDING T	HE TERMS AND CO	NDITION	HT NO BNC	E BACK	
TANK TO TO THIS	CONTRAC	. WHICH CONTAI	N WADDANTY				
A TARREST INVISION FROM LIVORISI	ONG KEWU	KING CUSTOMER	AND SCHLUMBED	GER TO	BE RESPO	ONSIRI F	1
FOR THE NEGLIGENCE, STRI	CT LIABILI	TY OR FAULT OF T	HE OTHER.				İ
i authorize work to begin as set forti Contract.	in this Contra	ict and represent that I i	nave the authority of the	custom	r to accept an	d sign this	
Signature of Customer or Authorized Representative: Set Jun 02 20:33:39 2007 KESTER, STEVE							
Signature of Schlumberger Representative: Set Jun 02 20:34:05 2007 Carnott, Christian							

STEVE KESTER - July 01, 2009

1	CERTIFICATION
2	STATE OF OKLAHOMA
3	COUNTY OF OKLAHOMA
4	I, MICHELE WATSON, Certified Shorthand
5	Reporter within and for the State of Oklahoma, do
6	hereby certify that the above-named STEVE KESTER
7	was by me first duly sworn to testify the truth,
8	the whole truth, and nothing but the truth in the
9	case aforesaid, and that the above and foregoing
10	Deposition was by me taken in shorthand and
11	thereafter transcribed, and the same was taken on
12	July 1, 2009, at 10:00 a.m. at 101 North Robinson,
13	in Oklahoma City, State of Oklahoma, in pursuance
14	of and under the stipulations hereinbefore set
15	out, and that I am not an attorney for the parties
16	or a relative of either of said parties or
17	otherwise interested in the event of said action.
18	IN WITNESS WHEREOF, I have hereunto set my
19	hand and seal this 11th day of July, 2009.
20	
21	MICHELE WATSON, CERTIFIED
22	SHORTHAND REPORTER FOR THE STATE OF OKLAHOMA
23	Oklahoma CSR No. 1771 My Commission Expires 12/31/09
24	My COMMISSION EXPILES 12/31/09
25	